

## Message Text

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ACTION ARA-14

INFO OCT-01 ISO-00 L-03 AID-05 CIAE-00 COME-00 EB-08

FRB-03 INR-07 NSAE-00 USIA-06 TRSE-00 XMB-02

OPIC-03 SP-02 LAB-04 SIL-01 OMB-01 CEA-01 NSC-05

SS-15 STR-04 /085 W

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R 291450Z JUL 77

FM AMEMBASSY BUENOS AIRES

TO SECSTATE WASHDC 1549

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E.O. 11652: N/A

TAGS: EINV, EIND, AR

SUBJECT: NEW INDUSTRIAL PROMOTION LAW

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1. SUMMARY: AFTER MANY MONTHS OF INTERNAL DEBATE AND STUDY, THE GOA PROMULGATED THE NEW INDUSTRIAL PROMOTION LAW (LAW 21908) ON JULY 23, 1977. IN CONTRAST WITH THE OLD INDUSTRIAL PROMOTION LAW, THE NEW LAW ALLOWS MAJORITY FOREIGN OWNED FIRMS DOMICILED IN ARGENTINA TO BENEFIT FROM THE INCENTIVES OF THE LAW. HOWEVER, INVESTMENTS BY FOREIGNERS WILL ONLY BE GIVEN TAX BENEFITS SELECTIVELY AND MUST BE APPROVED BY THE EXECUTIVE POWER, AS WELL AS BY THE SECRETARIAT OF INDUSTRY. THE MAIN OBJECTIVES, PRIORITIES, INCENTIVES AND PROCEDURES ARE SUMMARIZED BELOW.

2. THE MAIN OBJECTIVES OF THE LAW ARE TO PROMOTE: A) REGIONAL DEVELOPMENT; B) EFFICIENCY IN INDUSTRY; C) THE ESTABLISHMENT OF NEW INDUSTRIAL ACTIVITIES IN AREAS ALONG THE FRONTIER; D) THE DEVELOPMENT OF INDUSTRIES WHICH ARE NECESSARY FOR SECURITY AND NATIONAL DEFENSE; E) THE TRANSFER OF INDUSTRIES LOCATED IN HIGHLY POPULATED URBAN AREAS.

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3. IN EVALUATING PROJECTS UNDER THE LAW, SPECIAL CONSIDERATION WILL BE GIVEN TO INDUSTRIES WHICH:

A) MANUFACTURE BASIC OR STRATEGIC PRODUCTS; B) SUBSTITUTE FOR IMPORTS OR INCREASE EXPORTS IN ATTRACTIVE CONDITIONS FOR THE COUNTRY; C) PROCESS RAW MATERIALS PRODUCED IN THE REGION; D) HAVE A GREAT MULTIPLIER EFFECT; ARE

ESTABLISHED IN AREAS HAVING A HIGH RATE OF UNEMPLOYMENT, LOW GDP, OR HIGH RATES OF INTERNAL IMMIGRATION; OR ARE ADVISABLE FOR SECURITY OR GEOPOLITICAL REASONS; E) USE ADVANCED TECHNOLOGY AND DEVELOP APPLIED RESEARCH; F) PRODUCE PRODUCTS HAVING INTERNATIONAL STANDARDS OR QUALITY; AND G) PROVIDE ADDITIONAL SOCIAL BENEFITS TO WORKERS.

IN ALL CASES, BENEFITING PROJECTS WILL BE REQUIRED TO MAINTAIN ADEQUATE LIVING CONDITIONS AND TO AVOID ENVIRONMENTAL POLLUTION. THE ENTITY AUTHORIZING THE BENEFITS SHALL ENSURE THAT EFFICIENT INDUSTRY, EITHER ALREADY ESTABLISHED OR IN THE PROCESS OF BEING ESTABLISHED, WILL NOT BE UNDULY HURT.

4. THE TYPES OF INCENTIVES TO BE PROVIDED BY THE LAW ARE: A) EXEMPTION, REDUCTION, SUSPENSION OR DEFERMENT OF TAXES AND ACCELERATED AMORTIZATION. WHEN THE INVESTOR IN ANY PROJECT IS FOREIGN OR A LOCAL FIRM OF FOREIGN CAPITAL, THESE BENEFITS WILL ONLY BE AUTHORIZED SELECTIVELY AND NOT PROVIDED TO THE EXTENT THAT THEY RESULT IN A TRANSFER OF TAX REVENUE TO FOREIGN TREASURIES.

B) THE EXEMPTION OR REDUCTION OF IMPORT DUTIES ON CAPITAL GOODS AND PARTS NOT MANUFACTURED LOCALLY OR NOT LIMITED OFFICIAL USE

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FULFILLING REASONABLE PRICE OR QUALITY CONDITIONS;

C) FACILITIES TO PURCHASE OR RENT PROPERTY OWNED BY THE STATE;

D) THE ESTABLISHMENT OF TEMPORARY RESTRICTIONS ON THE IMPORT OF GOODS SIMILAR TO THOSE WHICH WILL BE PRODUCED TO AVOID PREJUDICIAL BUILD UP OF INVENTORIES;

E) THE TOTAL OR PARTIAL MODIFICATION OR EXEMPTION OF IMPORT DUTIES FOR RAW MATERIALS FOR THE PRODUCTS TO BE PRODUCED. THIS BENEFIT WILL ONLY BE AUTHORIZED SO LONG AS IT DOES NOT PROVIDE THE INVESTOR MORE ADVANTAGEOUS IMPORT CONDITIONS THAN THOSE ALREADY ENJOYED BY EXISTING INDUSTRIES;

F) THE IMPOSITION OF IMPORT DUTIES ON PRODUCTS SIMILAR TO THOSE TO BE PRODUCED, WITH GRADUALLY DECLINING LEVELS OF PROTECTION TO PROMOTE AN INCREASE IN PRODUCTIVITY AND EFFICIENCY IN THE CORRESPONDING INDUSTRIAL SECTOR. THE BENEFITS OUTLINED ABOVE WILL NOT BE GRANTED FOR MORE THAN 10 YEARS.

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ACTION ARA-14

INFO OCT-01 ISO-00 L-03 AID-05 CIAE-00 COME-00 EB-08  
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5. OTHER PROCEDURAL PROVISIONS INCLUDE:

A) THE SECRETARIAT OF INDUSTRY WILL BE THE IMPLEMENTING  
AUTHORITY FOR THE LAW AND THE BANCO NACIONAL DESARROLLA  
(BANADE) THE PRINCIPAL FINANCIAL AGENT FOR THE  
INDUSTRIAL PROMOTIONAL SYSTEM;

B) THE SECRETARIAT OF INDUSTRY SHALL CALCULATE A  
THEORETICAL FISCAL COST OF GIVING TAX BENEFITS UNDER  
PARA 4A FOR EACH PROJECT FOR EACH OF THE YEARS IN WHICH  
BENEFITS WILL BE GRANTED. THIS FISCAL CALCULATION SHALL  
BE COMMUNICATED TO THE SECRETARIAT OF FINANCE BEFORE  
FINAL PROJECT APPROVAL. THE MINISTRY OF ECONOMY SHALL  
ESTABLISH AN ANNUAL CEILING FOR THE TOTAL FISCAL BENEFITS  
TO BE PROVIDED UNDER THE LAW;

C) THE EXECUTIVE POWER MUST APPROVE INCENTIVES FOR  
PROJECTS IN THE AREA OF DEFENSE, NATIONAL SECURITY OR  
AN INDUSTRY TO BE ESTABLISHED IN A SECURITY ZONE; IN  
CASES WHERE THE BENEFICIARY IS A FOREIGN INVESTOR OR A  
LOCAL FIRM OF FOREIGN CAPITAL; OR WHEN THE PROJECT  
EXCEEDS AN AMOUNT TO BE ESTABLISHED BY REGULATIONS;

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D) INVESTORS ARE EXPECTED TO CONTRIBUTE AT LEAST 20 PERCENT OF CAPITAL REQUIRED FOR THE PROJECT (UNDER SPECIAL CIRCUMSTANCES THE PERCENTAGE CAN BE REDUCED TO 10 PERCENT);

E) THE LAW PROHIBITS THE ESTABLISHMENT OF NEW INDUSTRIES IN THE FEDERAL CAPITAL (THE EXECUTIVE POWER GRANT EXCEPTIONS). INDUSTRIAL PROJECTS WITHIN 60 KILOMETERS OF THE FEDERAL CAPITAL, AND ROSARIO AND CORDOBA ARE EXCLUDED FROM THE BENEFITS OF THE LAW (THE EXECUTIVE POWER CAN GRANT EXCEPTIONS);

F) THE LAW INCLUDES AMONG THE ELIGIBLE BENEFICIARIES FOREIGN INVESTORS DOMICILED IN ARGENTINA.

6. FREE ENGLISH TRANSLATION OF LAW WILL BE POUCHED AS SOON AS AVAILABLE.

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7. COMMENT: AS IN THE CASE OF THE FOREIGN INVESTMENT LAW, THE DISCRETIONARY AUTHORITY OF THOSE CHARGED WITH IMPLEMENTING THE NEW INDUSTRIAL PROMOTION LAW MAKES IT DIFFICULT TO DETERMINE A PRIORI TO WHAT EXTENT FOREIGN INVESTORS WILL BE ALLOWED TO BENEFIT FROM THE LAW. ALREADY IN THE LAW ITSELF, THERE ARE SOME SIGNALS POINTING AT DIFFICULTIES FOR FOREIGN INVESTORS. BY REQUIRING EXECUTIVE POWER APPROVAL FOR BENEFITS FOR FOREIGN INVESTMENT PROJECTS, THE LAW ALREADY GUARANTEES THAT FOREIGN INVESTORS WILL HAVE TO PUT UP WITH A LOT MORE RED TAPE THAN ARGENTINE INVESTORS. IN ADDITION, THE PROVISION INSTRUCTING THE AUTHORIZING ENTITY TO ENSURE THAT ALREADY ESTABLISHED "EFFICIENT" INDUSTRIES

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ARE NOT HURT COULD BE USED BY NATIONALIST ELEMENTS IN THE GOVERNMENT TO PREVENT THE ESTABLISHMENT OF FOREIGN PROJECTS WHICH MIGHT PROVE TOO COMPETITIVE FOR LOCAL INDUSTRY. LASTLY, IF THERE ARE ENOUGH LOCAL PROJECTS TO USE UP ALL THE THEORETICAL FISCAL BENEFITS ESTABLISHED IN THE ANNUAL CEILING, IT MIGHT PROVE DIFFICULT POLITICALLY TO GRANT FISCAL BENEFITS FOR FOREIGN INVESTMENT PROJECTS.

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